

भारत का राजपत्र The Gazette of India

प्रसाधारण

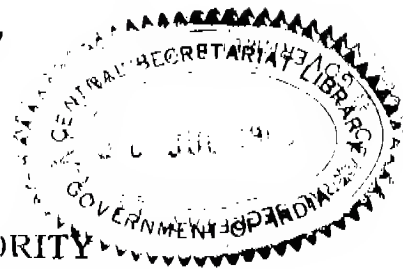
EXTRAORDINARY

भाग II-खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill further to amend the Constitution of India was presented to Lok Sabha on the 12th March, 1969:—

COMPOSITION OF THE COMMITTEE

Shri Shantilal Shah—*Chairman*

MEMBERS

Lok Sabha

2. Shri Debananda Amat
3. Shri Bedabrata Barua
4. Shri Fakhruddin Ali Ahmed
5. Shri B. Bhagavati
6. Shri R. D. Bhandare
7. Shri Anil K. Chanda
8. Shri M. K. Nanja Gowder
9. Shri Hem Barua
10. Shri Dhireswar Kalita
11. Shri K. M. Koushik
12. Shri Valmiki Choudhary
13. Shri Bal Raj Madhok
14. Shri K. Ananda Nambiar

15. Shri Nihal Singh
16. Chaudhary Nitiraj Singh
17. Shri T. D. Ramabadran
18. Shri M. B. Rana
19. Chaudhuri Randhir Singh
20. ~~Shri J. Ramprasad Das~~
21. Shri V. Sambasivam
22. Shri Nayal Kishore Sharma
23. Shri Prakash Vir Shastri
24. Shri Sheo Narain
25. Shri V. C. Shukla
26. Shri G. G. Swell
27. Shri Om Prakash Tyagi
28. Shri Atal Bihari Vajpayee
29. Shri G. Viswanathan
30. Shri Y. B. Chavan

Rajya Sabha

31. Dr. B. N. Antani
32. Shri Pitamber Das
33. Shri K. Chandrasekharan
34. Shri Golap Barbora
35. Shri A. D. Mani
36. Shri Purnananda Chetia
37. Shri Sriman Prafulla Goswami
38. Shri Hayatullah Ansari
39. Shri E. M. Sangma
40. Shri P. C. Mitra
41. Shri A. P. Sinha
42. Shri M. L. Kollur
43. Shri B. C. Pattnayak
44. Shri G. R. Patil
45. Shri Dalpat Singh

LEGISLATIVE COUNSEL

1. Shri V. N. Bhatia, Secretary, Legislative Department, Ministry of Law.
2. Shri K. K. Sundaram, Joint Secretary and Legislative Counsel, Ministry of Law.
3. Shri G. A. Shah, Joint Secretary and Legal Adviser, Ministry of Law.
4. Shri R. V. S. Peri-Sastri, Addl. Legislative Counsel, Ministry of Law.
5. Shri G. N. Saksena, Assistant Draftsman, D.L.O. (Leg) Commission, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri M. R. Yardi, Addl. Secretary
2. Shri K. R. Prabhu, Joint Secretary
3. Shri N. C. Sareen, Deputy Secretary

SECRETARY

Shri M. C. Chawla—Deputy Secretary.

REPORT OF THE JOINT COMMITTEE

1. The Chairman of the Joint Committee to which the Bill further to amend the Constitution of India was referred, having been authorised to submit the report on their behalf, present their Report with the Bill, as amended by the Committee annexed thereto.

2. The Bill was introduced in Lok Sabha on the 10th December, 1968. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Y. B. Chavan, Minister of Home Affairs, on the 20th December, 1968 which was discussed and adopted on the same day.

3. Rajya Sabha discussed and concurred in the said motion on the 28th December, 1968.

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin, Part II, dated the 31st December, 1968.

5. The Committee held six sittings in all.

6. The first sitting of the Committee was held on the 18th January, 1969 to draw up their programme of work. The Committee decided to hear the evidence of the Chief Secretary and Finance Secretary Government of Assam, Advocate General of Assam, the representatives of the Ministries of Home Affairs and Defence, the Attorney General of India and Shri Vishnu Sahay, former Governor of Assam, on the various implications of the proposed measure. The Committee, at this sitting, decided that a Press Communique be issued advising public bodies, organisations and other associations, who were desirous of submitting their suggestions/views, to send written memoranda on the Bill for their consideration.

7. 10 memoranda/representations/telegrams were received by the Committee from different associations/individuals.

8. At their second, third and fourth sittings held on the 11th, 12th and 13th February, 1969 respectively, the Committee heard evidence.

9. The Report of the Committee was to be presented by the first day of the Budget Session i.e., 17th February, 1969. As this was not possible, the Committee at their fourth sitting, held on the 13th February, 1969, decided to ask for extension of time for presentation of their Report upto the 12th March, 1969. Necessary motion was brought before the House and adopted on the 17th February, 1969.

10. The Committee have decided that the Evidence given before the Committee should be printed and laid on the Tables of both the Houses. The Committee have also decided that the memoranda/representations/telegrams submitted by various associations/organisations and Government Departments should be laid on the Tables of both the Houses and two copies thereof placed in the Parliament Library for reference.

11. The Committee considered the Bill clause-by-clause at their fifth sitting held on the 25th February, 1969.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs:

Enacting Formula and Clause 1.—The amendments made therein are of a formal character.

Clause 2.—(i) Some of the Members of the Committee had proposed certain amendments to this clause.

(ii) Some Members were of the view that the provision made in sub-clause (3) which required provisions made under sub-clause 2(a) and (b) of the proposed Article 244A to be amended by two-thirds majority was harsh inasmuch as it modified the normal procedure of Parliament for making such amendments by a simple majority of each House. According to them, the normal procedure of amending the law on the basis of a simple majority should be accepted.

(iii) The other Members contended that the provision made in sub-clause (3) of this clause was not a sufficient safeguard. They stated that the procedure for amendment provided in Article 368 of the Constitution should be followed and any amendment of a law referred to in the said sub-clause 2(a) and (b) should be made not only by two-thirds majority of the members present in each House and voting but also by a majority of the total membership of each House.

(iv) Shri Y. B. Chavan, Minister of Home Affairs stated that the provision in the Bill represented a *via media*. He explained that the present scheme was the outcome of a consensus and in future, if any change is to be made in the allocation of the legislative and the executive powers, it should be done with a large measure of agreement and not by a simple majority. It was in this context that the 2/3rds majority was provided in the Bill.

The Committee feel that the clause need not be amended. It has, therefore, been adopted without any amendment.

Clause 4.—The Committee feel that the powers which would be available to the President under new Article 371B proposed to be inserted by this clause are somewhat wide and are capable of being used to amend the Assembly rules even in regard to matters not connected with the constitution of the Committee for the Hill areas envisaged in that Article. The Committee are of the view that the clause should be clarified to avoid such an interpretation.

The clause has been amended accordingly.

13. The Committee considered and adopted the Report on the 5th March, 1969.

14. The Joint Committee recommend that the Bill, as amended, be passed.

NEW DELHI;

5th March, 1969.

Pratiguna 14, 1890 (S).

SHANTILAL SHAH,

Chairman,

Joint Committee

The clause has been amended accordingly.

13. The Committee considered and adopted the Report on the 27th March, 1960.

14. The Joint Committee recommended that the Bill, as amended, be passed.

MINUTES OF DISSENT

SHANTILAL SHAH

NEW DELHI

I

Chairman

March 1960

I regret my inability to support the report. The Bill, if passed into law, would constitute the most ill drafted of the Constitution amending Acts. The Bill goes against the scheme of the Constitution which does not envisage a State within a State. A law is contemplated to be enacted in pursuance of this Constitutional amendment. No procedure is given in the course of sub-Articles (1) and (2) of Article 244-A proposed, laying down any procedure for the passing of such law. However in the proposed sub-article (3) an amendment to any such law has to be passed in each House of Parliament by not less than 2/3rd of the members present and voting. I have been at a loss to find either from the evidence or from the discussions as to why a procedure different from the procedure for enacting the Law is to be made for enacting an amendment to the Law. The Law that will be passed in pursuance of this Constitutional amendment will naturally and in detail refer to various provisions in the Constitution. Provisions relating to the services, financial provisions, provisions relating to Public Service Commission, provisions relating to the Advocate General, provisions relating to the High Court Judges, provisions with reference to the annual financial statement, distribution of finances, and many other provisions contained in various Articles of the Constitution may have to be amended by this subsequent Law. Yet sub-Article (4) of Article 244-A proposed states that such Law will not be deemed to be an amendment of the Constitution for the purposes of Article 368 even though the Law may contain provision which amends or has the effect of amending the Constitution. The Constitution can be amended only in terms of Article 368. Article 368 contains the power of Parliament to amend and also lays down the procedure to amend any provision of the Constitution. There is no provision in this Bill which amends Article 368. So long as Article 368 stands, a law to amend a provision in the Constitution can be only as an amending Law to the Constitution and has got to conform to the procedure adumbrated in Article 368. The provision contained in sub-Article (4) of Article 244-A in the Bill constitutes a fraud on the Constitution and if Parliament refuses to recognise this fraud, the Supreme Court or the High Court is likely to strike down the Law as a fraud on the Constitution. There is no question, so far as I am concerned, of doubting in any wise Parliament's power to amend any provision of the Constitution including provisions contained in Part III. I am also against circulation to the States of an amendment relating to Part III curtailing the fundamental rights, and there is no such provision in Article 368. I have dealt with on this aspect in my dissenting note to the Constitution Amendment Bill Select Committee Report (Shri

Nath Pai Bill). I make it quite clear that what I object to is the indirect method of Constitutional Amendment by a Law as suggested in the present Bill, and which according to me would tantamount to a most objectionable pattern of legislation.

I have no doubt that the so-called autonomous State within the State of Assam which created for itself a new identity of the people in the hill areas, would create more problems between the hill people and the valley people, large as it is, as between the Assam State Government and the suggested autonomous State and a greater demand from the autonomous State itself in the matter of the appointment of the Public Service Commission Chairman and Members, in the matter of the appointment of the Advocate General, in the matter of the appointment of the High Court Judges, in the matter of the laying of the annual financial statement under Article 202 of the Constitution, the Governor of the State of Assam who is also the Governor of the autonomous State will have to be guided only by the advice of the Chief Minister of Assam. The Governor cannot be burdened with the liability of considering the advice of both the Chief Minister of Assam and the advice of the Chief Minister of the autonomous State. That will be giving the final say to choose to the Governor, and there is no such power in the Governor under the provisions of the Constitution, for the spheres in which the Governor can act in his discretion are defined in the Articles of the Constitution themselves. I do not know how this position can be resolved without the Chief Minister of the autonomous State coming in, in respect of these matters, the autonomous State will feel naturally that it is under the same rule of law as the State of Assam. All the autonomous Law and Order are not proposed to be transferred to the autonomous State, it will not be long before the autonomous State if created would demand the transfer of Law and Order subjects to itself. Without Law and Order, and with only the few items enumerated in the background note given to us, the autonomous State will be a glorified Panchayat and the Chief Minister of the autonomous State will just be a glorified Panchayat President. Is that the end for which the hill peoples sought for so long, they know better not. But my only doubt is whether they have realised that this will be the position. In the background note and in the press statement of the Government of India in September, 1968, it is stated that the all India Services will be joint, the higher State services will be joint, and sections of the lower categories of State services will be transferred to the autonomous State. Large sections of officers administering within the autonomous State will be under the direct control of the autonomous State Government and the Government of the State of Assam. This is bound to lead to administrative difficulties of complications and a confusion of the officers of the All India Services and the officers of the higher State Services will have to naturally be within the disciplinary control of the Chief Minister of Assam and his Government and under such conditions where the responsibilities are so divided between the Government of the State of Assam and the autonomous State and the Government of India on the matter of distribution of the financial large and constant difficulties are bound to arise.

The hill areas of Assam are the Garo hills, the United Khasi and Jaintia Hills, the United Mikir and North Cachar Hills and the Mizo Hills. According to the background note and the press statement of the Government of India, the Law that is proposed to be enacted is for the constitution of an autonomous State consisting of the Garo Hills and the United Khasi and Jaintia Hills. It is left to the United Mikir and North Cachar hills to join the autonomous State at any later stage. The Mizo Hills are not brought into the autonomous State at all. In this view of things the larger demand for the formation of a State for the hills peoples of Assam loses all its content and meaning. In case the United Mikir and North Cachar Hills go into the autonomous State, the Mizo Hills area which is in the State of Assam will be separated from the other part of the State of Assam by an enclave of the autonomous State of Assam consisting of United Mikir and North Cachar Hills areas in the middle. The Mizo Hills are kept separate and not to be included in the autonomous State probably because of the serious nature of the Law and Order situation there. This enclave of the autonomous State is bound to create administrative problems and difficulties for the Assam State Government in the Mizo Hills area.

The District Councils constituted under Schedule VI of the Constitution are to be continued. The dual administration of the areas within Shillong Cantonment is also to be continued. A portion of Shillong Cantonment would be within the administrative control of the Cantonment administration, the District Council Administration, the State Government Administration and the Administration of the autonomous State. It is rather an unhappy state of affairs proposed for the capital of the State.

No doubt this Constitution Amendment Bill is only an enabling measure, and the Law that is to be passed hereafter would be the substantial legislation. Even then, since this Bill is going to be passed with a definite purpose, it ought to have been made possible for the Select Committee to hold sittings within the state of Assam itself. It would have been possible for the members of the Select Committee to know the pulse of Assam in better measure. It has often been stated on behalf of Government in the course of the Select Committee proceedings that the legislation is being pursued on account of the consensus in Assam. It may be that the Assam Hills Peoples Leaders Conference has tentatively agreed to some of these suggestions. But the Select Committee have received memoranda from the Hill State Peoples Democratic Party. We have also received various telegrams from different individuals and Associations within Assam. I do not want to enumerate all of them. The State Government of Assam itself brought forward amendments to this Bill, and a mere reference to the evidence of the Chief Secretary and the Advocate General to the Government of Assam would show that with what an amount of suspicion and doubt regarding the details of the Law to be enacted hereafter, the Assam State Government itself is looking at this Bill. The amendments proposed by the Assam State Government have not been accepted by the Select Committee.

I register my voice of dissent against the Bill as it has come out now but with some verbal or minor amendments. The Bill will be one more step definitely backward in the matter of national and emotional integration. The Bill paves the way for the advancement of fissiparous tendencies elsewhere in the country also.

NEW DELHI;
March 5, 1960.

K. CHANDRASEKHARAN.

II

The Constitution (Twenty-second) Amendment Bill, when adopted, is going to be the basis for the Reorganisation of the State of Assam, as envisaged in the 11th September declaration of the Government of India. Though another Bill is coming up before the Parliament at a later stage for the actual reorganisation of the State and it is being said by those at the helm of affairs that there will be enough scope at that time to discuss in detail the pros and cons of the proposed reorganisation, I am afraid, the Bill in its present form shall leave little opportunity for the same. This Bill only envisages a sub-State consisting of the Khasi-Jaintia and Garo Hills within the State of Assam. As such, the scope of the Bill is very limited and does not create any ground for solving the entire problem of the hill areas of Assam. I would like to make it clear that the Samyukta Socialist Party (Assam) had all along been demanding solution of the problem of the Hill areas of Assam keeping in view the economic and socio-political set-up of the North Eastern Region as a whole. The S. S. P. (Assam) as such was not a party to the so-called consensus arrived at by the Union Govt., the Government of Assam and the APHLC over the 11th September declaration nor to the idea of giving it a 'fair trial' as propagated by certain other elements in Assam out of despair and helplessness.

The Proposed reorganisation as outlined in the 11th September declaration has satisfied nobody in Assam, neither the hills people nor the people of the plains; both of the Brahmaputra and the Surama Valley. Even in Khasi-Jaintia and Garo Hills, for which the sub-state has been proposed, many people whatever be their number now feel let down by the APHLC leadership and have formed the Hill State People's Democratic Party to further carry on their struggle for a separate Hills State. The demand for autonomy for the Plains Tribals and the Rajbanshis mostly in the Goalpara District has now been jointly taken up by the three District (Sub Divisional) Congress Committees of Goalpara, Dhubri and Kokrajhar. Sections of certain backward Committees like the Ahoms and the Mutocks in the Districts of Sibsagar and Lakhimpur in Upper Assam have also been demanding autonomy for the areas predominated by them. The Mikir Hills District Council in a memorandum submitted some time back to the Government of India, said, ".....we deem it fair that similar status and administrative arrangements proposed for the Khasi-Jaintia and Garo Hills as appear in the latest proposal be extended to Mikir and North Cachar Hills. It is more a question of recognising distinct political entity of our tribes, and is not a mere question of joining or not joining the proposed state of Meghalaya." Certain elements in the

Garó Hills also plead for the recognition of their 'distinct political entity'. The people of Cachar District are also perturbed about their future set up, if North Cachar and Mikir Hills at a later stage opt to join the proposed sub-State.

It is now clear that the present Bill falls far short of preparing the ground for a real solution of the problem of political and administrative realinement of the North Eastern Region as a whole. The S.S.P. (Assam) is of opinion that "(1) The scheme of reorganisation should be taken up in two stages, namely (a) the extension of democratic rights to the people and decentralisation of State powers to the different district units, both hills and plains in Assam, as also NEFA, (b) establishment of a new integrated political set up comprising the present States of Assam, Nagaland, Manipur, Tripura and NEFA.

(2) Any scheme of reorganisation must be based on the principle of a four pillar state, namely, the State standing on the four pillars of the centre, the State, the District and the village or town."

Under such circumstances, if the Bill in its present form is enacted the problem of Assam's Reorganisation is not going to be solved, many complications leading to bureaucratic red-tapism shall arise; agitation for autonomy by the people of other hills as well as the backward people of the plains shall continue; the most sensitive North Eastern Region as a whole will never see peace and real integration. So I am opposed to the Bill as such.

NEW DELHI;
March 5, 1969.

GOLAP BARBORA.

III

I am unable to agree to the retention of clause (3) of Section 2 of the Bill.

The normal parliamentary practice is that any Bill, except a Bill to amend the Constitution, is passed by a simple majority of members present and voting. Clause (4) of Section 2 of the Bill provides for this. Under this clause the Reorganisation Bill will be passed by a simple majority of members present and voting. But clause (3) referred to above provides that an amendment of certain provisions of the Reorganisation Law will have to be passed by a vote of two-thirds of the members present and voting. This is an anomalous position and it restricts the freedom and usual privilege of Parliament. Moreover, the scheme of an Autonomous State is a new concept in the political set-up of the country and can work successfully only if rigidity is eschewed and sufficient flexibility is provided for future adjustments and reciprocal cooperation between the two states, the Assam State and the Autonomous State. Clause (3) of Section 2 will greatly hamper, or even defeat, this purpose.

NEW DELHI;
March 6, 1969.

G. G. SWELL.

IV

Before we took up the business of Joint Committee on the Constitution (Twenty-second Amendment) Bill, 1968, there had been so many deliberations, discussions and consultations. Besides, there were so many committees and commissions in connection with the formation of autonomous state within Assam, such as SRC report, Mehta Commission and Patasker Commission etc. It is the over all national consensus that the weaker section i.e. the tribal people be given a fair deal to grow according to their genius and tradition. Their hopes and aspirations should be fulfilled. I associated myself with this view. But I apprehend that we are going to set up precedence for the demand and creation of so many States within Indian Union and thus make mincemeat and vivisection of our Indian Union. There are such movements in the offing. In Uttar Pradesh the biggest State of India, which has ever since returned three Prime Ministers of India, there is a demand for the formation of a tribal province within U.P., consisting of eight districts. Not only that, there is also underground movement for the bifurcation of the biggest province in India. The Sikhs wanting a home land of their own. Punjab was divided due to creation of Hindustan and Pakistan. Again East Punjab was bifurcated into Punjab and Haryana. The tribal people want a separate district within Haryana. In the far North in West Bengal the hill tribes want Darjeeling to be declared a tribal district, whereas in the far South the Muslims of Kerala want Calicut to be declared as a separate Muslim district. Telangana people want a separate statehood. Vidarbha is rumbling. There is the demand for a Jharkhand Pradesh for the hill people whose number is about 148 lakhs. We created Nagaland with 3½ lakhs of population. So there should be rethinking and reconsideration on the formation of separate states or sub-states on the grounds and consideration of political, social, strategical, cultural, tribal, economical or any other points of view. All these breed suspicion and pose unrest to the security and integrity of the nation.

From these points of view I make my minute of dissent to ~~this~~ Bill.

NEW DELHI;
March 10, 1969.

DEBANANDA AMAT.

V

The decision to re-organise the present State of Assam, as demanded by the APHLC, an organisation of leaders founded in 1960, is based on erroneous principles and sentimental rigmatoles. What can be the idea behind this demand for disintegration? (i) If it is so-called linguistic exploitation of the Hills people by the Brahmaputra Valley people, then even a cursory glance into the provisions of the Assam Official Language Bill of 1960 will convince one of how false and fake this slogan of linguistic exploitation is. There is no attempt in any of the provisions of the Assam Language Act towards imposition of Assamese on the people of the Hills. (ii) If the demand is based on the slogan of so-called economic exploitation of the Hills people by plains people, then this theory is exploded by the Patasker

Commission Report with facts, figures and statistics. We must not forget that the Indian Income-tax Act does not extend to the hills areas of Assam. And who is reaping the benefit out of it? Is it the people in the masses or their leaders who make available the permits and licences they obtain to the non-tribal business-men in the Hills? These business-men are exempt from paying the income-tax accruing out of the earnings on these permits and licences that are in the name of the Hills leaders. Now, who has exploited whom?

The seed of disintegration is inherent in this proposal to re-organise the present State of Assam. These disruptive forces have emerged not only within Assam, but also elsewhere in the country. If for the sake of re-organisation a separate State or sub-State is conceded to a people numbering only 13,15,149 (Census Report, 1961), how could a similar political status be denied to 42 lakhs of tribal people in Orissa or a similar number in Bihar? The same problem will arise with respect to some other States of India, including West Bengal where the percentage of tribal people is larger than that of Assam.

Apart from these basic facts that are bound to disrupt our national life this Constitution (Twenty-second Amendment) Bill, 1968 is fraught with dangerous possibilities as also a naked attempt to violate the Constitution and bypass the legitimate aspirations of the State of Assam for composite living and concerted thinking. Article 368 of the Constitution makes certain things obligatory. This proposed Bill seeks to bypass and do away with this obligatory provision of the Constitution. Not to speak of ratification by a majority of States as provided in Article 368 of the Constitution, even the State of Assam whose interests are vitally connected with any proposal to re-organise the State is sought to be bypassed in this Bill. It can be clever political manipulation, but it is not right statesmanship. Should the Parliament bypass Article 368 of the Constitution? The Parliament, an embodiment of justice and fairplay, must not give encouragement to such a hazardous proposition.

The Bill, as framed and constituted, is bound to give rise to a host of administrative problems so far as the State is concerned. Unfortunately, this proposition enshrines the idea of a Federation within a Federation which is India. If there can be a Federation within a Federation for the strategic area of Assam, then why not a similar thing for other parts of India? Or is Assam to be made a laboratory for all sorts of experiments? Why is this double thinking?

NEW DELHI;

HEM BARUA

March 10, 1969.

PRAKASH VIR SHASTRI

VI

This is a bill which is of great significance. This intends to amend the Constitution of India for the 22nd time, so as to enable to bring in a sub-State for the Hills People of Assam.

This measure aims at constituting what is known as an "Autonomous State" within the State of Assam, which is absolutely a new concept. We have in our Constitution States with equal powers and certain units administered by Centre direct. But we have no State at present known as 'Autonomous State' within a State. The argument put forward by the Home Minister is that the provision of this 'Autonomous State' is to satisfy the desires of the Hills People of Assam to have a State, so as to enable them to develop equally with other people having the administrative machinery in their own hands. There was a long and continued agitation for a separate State by the Hills People of Assam. The Government of India agreed with the representatives of the Hills People, that their desires would be met satisfactorily. But unfortunately to them the present measure is not in any way meeting with their demands inasmuch as this intends to create only a Sub-State instead of a separate State.

In Part X of the Constitution, after Article 244, a new Article 244A is introduced giving powers to the Parliament to create a 'Sub-State' within the State of Assam by partly nominating and partly electing a legislature and to empower it to have the powers to make laws for that Sub-State, to define matters with respect to which the executive power of the "Autonomous State" shall extend and to provide that a portion of any tax levied by the State of Assam shall be assigned to this 'Autonomous State' etc. This clearly shows that the functions and the powers of the Autonomous State of Assam are limited to the extent to which the Assam State legislature agrees to and not beyond that.

The present amendment of the Constitution limits the scope and functions of the Autonomous State and therefore I call it a 'Sub-State'. I objected to this approach to this question fundamentally. I moved an amendment in the Select Committee to grant a full and equal state for the Hills People of Assam, separate from the Assam State. This was not agreed to by the Committee. I still hold that there is no use in granting this sub-state which will not satisfy the Hills People and will only create further complications and uneasiness. When once the Government of India agrees that the Hills People should have equal opportunities for their own developments, it is only fair that they are given full Statehood rather than giving a sub-state and create further suspicion in their minds.

Under the circumstances I wish that the Government would at least bring in suitable amendments in the Parliament so as to rectify this defect in the present measure and grant to the Hills People of Assam a full and separate State.

Further, this Amendment Bill also provides in sub-clause (3) of Section 2 that any further amendments to the legislation that the Parliament may pass for creating this sub-state should have a majority of not less than two-thirds of the members present and voting. This provision does not stand to reason. If the Parliament can pass a legislation to create an 'Autonomous State' with a simple majority how could it lose the right to pass an amendment to that legislation in the same manner? To extend it to a "Two-Thirds majority" for

future amendments looks absurd. I objected to this provision as well along with many others, but the Committee did not agree with us. However, I feel that this provision also should be amended by the Parliament to make it one of a 'simple majority'. When this point was brought to the notice of the Attorney General, while examining him, he opined that the Parliament has right to fix whatever sort of majority it requires and there is no legal impediment. However, I do not object to this on legal grounds only but on reasoning and propriety too. The arguments that easy and repeated amendments, if brought to such a legislation, could jeopardise the equilibrium that is likely to achieve at present, cannot hold water for the purpose of limiting the powers of Parliament in such an unreasonable manner. This matter warrants a thorough rethinking more so to allay the fears of the Hills People that they are not equally treated. They should not be made to feel that a premium is put on their further aspirations.

NEW DELHI;
March 10, 1969.

K. ANANDA NAMBIAR

VII

In considering the Bill, I am constrained to say that I am unhappy over the carving out "of autonomous units" out of the hill areas specified under clause 2 of the Bill. I am conscious of the fact that the Constitution Amendment Bill is the result of a consensus among the concerned parties about the need for reorganisation of the State of Assam on the lines outlined in the Bill. I would not like to do anything which would come in the way of agreed solutions. But agreed solutions must not contain the germs of future trouble and confusion. We have always been thinking of the development of India as a united Federal Republic consisting of strong States, rooted in attachment to the Federal principle but the parcelling out of hill areas into autonomous units is fraught with serious dangers to Indian units and will strengthen fissiparous tendencies in the country. This Assam experiment will have widespread repercussions and it would be difficult to resist in future demands for separate statehood for Vidarbha and Telengana. What we are witnessing today is the dismantling of the fabric of a united India. I feel it my duty to express my deep misgivings about the wisdom of step which is now being taken in this Bill as in my opinion this Bill will create more problems than it seeks to solve.

NEW DELHI;
March 10, 1969.

A. D. MANI

VIII

The founding fathers of the Indian Constitution provided a distinct pattern of administration for the tribal people of Assam within the overall unity of that strategic and sensitive part of India.

The list of tribal areas and the pattern of the administration envisaged for them has been given in detail in Schedule VI of the Constitution. A distinction has been drawn in it between the tribal areas of NEFA and ASSAM. The pattern given mainly deals with the tribal areas of Assam.

The idea behind distinct and separate pattern for tribal areas which were sought to be governed by autonomous district councils was to safeguard their distinct social and economic structure and provide full scope for the fulfilment of their local and even parochial aspirations.

Even before this scheme could be given a fair trial, certain elements in Naga hills under inspiration of foreign missionaries began to demand scrapping of the system and its replacement by full fledged statehood. Some extremist sections began to demand complete separation from India. The Government of India failed to deal with the recalcitrant elements effectively and decided to appease them by the creation of the state of Nagaland with a population of less than four lakhs.

It was then clear to all thinking people that the example of Nagaland will encourage such separatist demands in other hill areas also sooner or later. The warning was given in clear terms in the Parliament by a Member of leading members of the Jana Sangh.

The developments in Mizo hills, and the demand for separate statehood by Assam Hill People Conference for other Tribal areas is the logical sequel to the policy of the Government of India regarding Nagaland.

It was then suggested by the Jana Sangh that the whole problem of the hill areas of Assam and their relationship with Assam plains should be studied de-novo in the context of real or imagined fears and aspirations of the Tribal people, their mistrust of Assam Government and the needs and compulsions of overall security and integrity of the country.

The coming into existence of Pindi-Peking axis and their hostile designs for the dis-memberment of Assam and its incorporation in China and Pakistan added new dimensions to the problem. It made the Jana Sangh suggestion for the appointment of a defence-oriented high power commission to go into the question of reorganisation of the entire Eastern Region including the valley of Assam, the hill areas of Assam, Manipur, Tripura, Nagaland and NEFA, all the more relevant and urgent. But instead of doing that the Government of India and Government of Assam continued to tinker with the problem purely from partisan point of view. The conflicting and contradictory pronouncements by the Spokesmen of the Government of India on the eve of 1967 elections created new hopes and fears in different sections of Assam people and created an explosive situation an inkling of which was given by the happenings in Gauhati in January, 1968.

The present Constitution Amendment Bill seeks to create an autonomous sub-State consisting of the Khasi, Jaintia and Garo hills within the state of Assam. It is suggested that it will satisfy the aspirations of the hill people without destroying the overall unity of the State of Assam. Garo Hills are to be included in the new state but North Lachar and Mikir hills are kept out of it. They

have been given option to continue their present autonomous district status within the state of Assam or join the new hill State in course of time according to their will.

The main snag in this scheme is that it aims at a piecemeal and half-hearted solution of the problem and therefore, will tend to complicate and aggravate the problem instead of solving it. Already there are representations from vocal sections of the Khasi and Jaintia hill that they want full fledged statehood and not the sub-state as envisaged in this bill. A number of representations from Garo Hills want its present status as autonomous district to be continued or at least to have option to opt out of the proposed hill state if they so decide in future. There are others who have demanded full fledged statehood for each hill district on the pattern of Nagaland. The non-Tribal minorities like the Gorkhas, the Plain people and others have been scared by the scheme and have demanded safeguards for them. Even the A.H.P.L.C. have accepted the scheme with mental reservation. They have not reconciled themselves to law and order remaining with Assam State.

It is thus clear that the pattern envisaged in this bill will not settle the Assam problem but will create a dangerous precedent. It will further widen the flood gates of disruption opened by the creation of the state of Nagaland.

We fully sympathise with the genuine aspiration of our compatriots of the hill areas and want to remove any sense of grievance they may have. But we are definitely opposed to the policy of piecemeal solutions which amounts to tinkering with the problem to buy peace for the time being. It is no policy and it smacks of a recklessness born out of "after me the deluge" approach to the national problems.

We, therefore, reiterate that the problem of reorganisation of the whole of eastern region should be tackled together after having the matter thoroughly enquired into by a high powered defence-oriented commission. We are convinced that so long as the present policy regarding Nagaland continues, it will continue to have a contagious effect on other hill areas of Assam and NEFA. We are also convinced that the pattern in the border regions has to be somewhat different from the rest of the country. It would be wrong to expect absolute normalcy in the border areas flanked by the hostile countries like Pakistan and China. Because of this, it does not mean that the Central Government should go on abdicating its powers and responsibilities in such areas. As things are, the centre has a special position in regard to border areas. It has to shoulder greater economic responsibility for their rapid economic growth and also for their internal and external security. The concept of union territories was evolved with an eye on such areas. It is, therefore, imperative that instead of giving full statehood to small areas like Nagaland or huddling different Tribal areas together as is envisaged in this bill for Khasi, Jaintia and Garo hills, the autonomous status of each hill district should be further strengthened by treating each of them as a Union Territory. All these Union territories together with the state of Assam should have a common

Governor assisted by a number of Commissioners for different territories, a Common High Court, a common Civil Service and a common Police Cadre. A pattern on these lines can surely be evolved after a thorough examination of the whole problem by the commission suggested above. Such a pattern can fully satisfy aspirations of each tribal area and people and at the same time safeguard the wider interests of the country as a whole.

In view of what is stated above we are unable to agree with the report of Joint Select Committee on the Constitution (22nd. Amendment) Bill.

NEW DELHI;
March 10, 1969.

ATAL BIHARI VAJPAYEE.
OM PRAKASH TYAGI.
PITAMBER DAS.
BALRAJ MADHOK.

IX

I have gone through the report of the Joint Committee. The recommendations in the report as they are, seem to have only one sided view and opinion without being able to have correct and impartial assessment of the desire and wishes of the people who are inhabiting each of the Autonomous Hill Districts of Assam. The evidence given by the Union Home Secretary before the Joint Committee on the 12th February, 1969 basing on the reports received from various sources, as he stated, appears also to be one-sided and partial to the wishes and desires of the leaders of the All Party Hill Leaders Conference. This evidence totally ignored the views and opinions of other organisations which represent the masses and various communities living in each of the Autonomous Hill Districts of Assam. Neither it could make correct assessment of the outlook and mentality of each of the tribes living in these Autonomous Hill Districts of Assam. In the meantime, it did not try to go deeper into the matters whether by tagging or amalgamating only two districts of Garo Hills and united Khasi and Jaintia Hills will bring permanent solution of the present problem. It appears from the evidence given by the Home Secretary that in the political aspirations of the Leaders of APHLC who are mostly from the Districts of Garo Hills and United Khasi and Jaintia Hills can be made satisfied by amalgamating these two districts, the people in these districts can also be made satisfied because they are ignorant and not conscious of what will happen to their existence if these two districts are put together to have one separate autonomous administrative unit even within the State of Assam.

It is known to the Home Secretary that there are autonomous districts councils in these districts which are being run by the Leaders of the APHLC from the inception of these Councils till today. These Districts Councils should have been thoroughly examined before the Home Ministry decided to finalise the matter of giving autonomous Hill State whether the Administrators (Leaders of APHLC) in these two district Councils were and are actually

trying their best for the welfare and development of their respective people and areas, or, they were and are holding the district Council administration only to exploit and suppress their own ignorant and innocent simple people for their own power and glory. If there would have been such thorough enquiry and examination under the relevant provision of the Sixth schedule to the Constitution (paragraph 14), a clear picture of these district Council administrations could have been revealed to those who have no chance or opportunity as to know the things in detail of these administrations. If this would have been done, then the Hon'ble members of the Committee and of both Houses of Parliament would have astounded to know whether the allegations put forward by the APHLC Leaders against others (Assam Congress, Assam Government and Assam people) were justified or not.

Now, coming to the main point why I am to disagree with the idea of giving only one Autonomous Hill State within the State of Assam comprising the areas of two Hill Districts of Garo Hills and United Khasi and Jaintia Hills is that this kind of arrangement by tagging two districts together will not bring a permanent and peaceful solution. If these two districts are to be amalgamated together, there will be constant quarrel and conflict more particularly between these two main tribes, namely, the Garos and the Khasis on various matters and for various reasons which are stated briefly hereunder.

The population of the Garo Hills District is only 3,07,228 whereas that of the United Khasi and Jaintia Hills is 4,62,152 according to 1961 census figure. That is, Garo Hills is much smaller in population as well as in area than United Khasi and Jaintia Hills. Garos are different from the Khasis and Jaintias in their ethnical origin as they differ from Assamese or Bengalese and other Communities in all other States in the Country.

Therefore, the Garos are quite different from the Khasis and Jaintias in language, customs, usages, culture and traditions, etc. Moreover, right of inheritance and the system of holding lands in the hill areas of these two districts are very much different from each other. Taxations on lands and other matters are more and much heavier in Garo Hills whereas much less in Khasi Hills.

Over and above these, people in Khasi Hills are far more advanced in all respects than the people in Garo Hills, and United Mikir and North Cachar Hills districts,—in education, in holding services in the Government (State and Central), in technical educations, in local industries, in business and in economic condition. It can be said without any doubt that Khasis are much more advanced even than the major communities living in the Plain Districts of Assam. So, under such circumstances, if the districts of Garo Hills and United Khasi and Jaintia Hills are to be tagged together to form and create one Autonomous State, it will be no better than asking a donkey and a horse to run a race, or, a dwarf and a giant to wrestle. That is, in other words, the Garos will automatically be under constant domination and exploitation by

their fellow tribals, the Khasis. So, the ultimate consequence of amalgamating the districts of Garo Hills and United Khasi and Jaintia Hills will be resulting in constant quarrels, conflict and hatred in various matters between these two tribes. It can be pointed out in this connection why the Jaintia had to demand for a separate District Council for their own area, the Jaintia Hill, bifurcating from the District Council at Shillong which they had together with the Khasis till 1966. Jaintias and Khasis are of the same ethnical origin and speak the same language and use the same Khasi literature. Even then, the Jaintias could not live together with the Khasis under the same administration of one District Council for the same reasons which are enumerated above. It can also be further pointed out that why the district councils of Garo Hills and Khasi Hills did not join together to form and create one District Council and one autonomous district during these long seventeen years although there is a specific provision for doing so under clause (f) of sub-paragraph (3) of Paragraph 1 of the Sixth Schedule to the Constitution. On the contrary, as stated above, the Jaintias ran away from the Khasis and constituted their own District Council at Jowai in 1967.

Therefore, under all such circumstances it will be wiser and more advisable to give an Autonomous State to each of the existing Autonomous Hill Districts of Assam so that each of them can peacefully live and develop themselves free from domination and exploitation by the bigger and stronger tribe. Only this will be the lasting and peaceful solution to satisfy various aspirations including political aspirations of the Hill tribes living in each of the Assam Autonomous Hill Districts.

If this suggestion is accepted, even the people of Mizo Hills District will be happy to have their own Autonomous Mizoram State. The people of United Mikir and North Cachar Hills district have already placed their desire and willingness to the Central Government to give them an Autonomous Hill State for their own area separately. Similarly, the Garo Hills District Congress Committee has already communicated to the Central Government to give Autonomous Hill State to each of the Autonomous Hill Districts of Assam stating that this will be the only lasting and peaceful solution of the problem which is confronting the State of Assam.

As a man of the district of Garo Hills and having adequate knowledge of all the areas of Hills and Plains in Assam, I have a full confidence in my own views and opinion that while reorganising the administrative set up in Assam as announced by the Government of India on the 11th September, 1968, the problem of Assam, which Hon'ble members are anxious to solve as earliest as possible, can be solved in a lasting and peaceful manner if an Autonomous Hill State is given to each of the existing Autonomous Hill Districts.

Since the report of the Joint Committee appointed for the purpose indicates only to give one Autonomous Hill State comprising

the Districts of Garo Hills, and United Khasi and Jaintia Hills giving option to United Mikir and North Cachar Hills District either to join it, or, to remain with Assam, and nothing is mentioned about Mizo Hills, I cannot agree with the report of the Joint Committee.

I, therefore, sincerely request the Hon'ble members of both the Houses of Parliament to have a serious view on my points while considering the report of the Joint Committee.

NEW DELHI

March 11, 1969.

E. M. SANGMA.

Bill No. 113-B of 1968

**THE CONSTITUTION (TWENTY-SECOND AMENDMENT)
BILL, 1968**

(AS REPORTED BY THE JOINT COMMITTEE)

(Words underlined indicate the amendments suggested by the Committee)

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twenty-second Amendment) Act, 1969.

Short
title.

5 2. In Part X of the Constitution, after article 244, the following article shall be inserted, namely:—

Insertion
of new
article
244A.

10 **"244A.** (1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and create therefor—

Formation
of an
autono-
mous
State
compris-
ing cer-
tain tri-
bal areas
in Assam

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

and crea-
tion of
local Le-
gislation
or Council
of Minis-
ters or both
therefor.

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may, in particular,—

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;

(b) define the matters with respect to which the executive power of the autonomous State shall extend;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.”

Amend-
ment of
article
275.

3 In article 275 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) On and from the formation of the autonomous State under article 244A,—

(i) any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with

the approval of the Government of India for the purpose of raising the level of administration of that State to that of the administration of the rest of the State of Assam.”.

5 4. After article 371A of the Constitution, the following article shall be inserted, namely:—

10 “371B. Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.”.

Insertion
of new
article
371B.
Special
provision
with respect
to
State of
Assam.

S. L. SHAKDHER,

Secretary.

